

January 29, 2009

Office of Planning and Research  
P.O. Box 3022  
Sacramento, Ca 95812-3044

Subject: Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions  
(SB97)

Gentlemen:

Pursuant to Senate Bill 97 (Chapter 185, 2007) the Governor's Office of Planning and Research (OPR) is developing CEQA guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions." OPR issued the initial draft of the guidelines on January 8, 2009, with comments due on February 2, 2009.

This letter provides the comments of LSA Associates, Inc. (LSA) regarding the proposed changes to the CEQA guidelines. LSA is an environmental and transportation planning consulting firm with ten offices in California and 250 employees. We have been CEQA practitioners for over 30 years and have completed thousands of CEQA documents and related technical studies during that period. As such, we have extensive, specific professional experience in working with the CEQA *Guidelines* and the Appendix G checklist. The following comments are based upon that experience.

The comments expressed here are those of the management of LSA, and do not necessarily reflect the views of any of our clients.

We concur with many of the proposed changes; however, this letter addresses particular areas of concern and offers specific suggestions for improvement. Our focus is on the proposed changes in the Transportation and Traffic Section of the Appendix G checklist. As proposed, the checklist changes would eliminate references to roadway capacity and level-of-service (LOS) as environmental concerns, and replace them with references to vehicle miles travelled (VMT). We are concerned that the changes as proposed 1) do not achieve the apparent objectives, and 2) do not provide sufficient guidance to practitioners as to their meaning.

The following discussion is broken into three sections:

- Roadway Capacity and LOS Standards
- VMT as Significance Standard
- Parking

In each case, we suggest alternative language

## ROADWAY CAPACITY AND LOS STANDARDS

The proposed change eliminates the current requirements for the discussion of roadway capacity and LOS as specified in the current checklist items XV a) and b). However, the change does not recognize that roadway capacity standards and LOS standards are established in many different planning laws and standards including, but not limited to, the following:

- City and County General Plans
- City Traffic Ordinances
- County and Regional Congestion Management Plans
- The State of California Department of Transportation Highway Design Manual
- The CEQA Guideline Checklist Questions on Land Use

Indeed, in some cases, the voter-approved passage of transportation sales tax measures has been predicated on the establishment of Congestion Management Plans inclusive of LOS standards

One may argue that even though other planning regulations require LOS analysis, the CEQA analysis, as recommended, does not have to include such a discussion. However, eliminating the discussion from the transportation section fails to achieve that goal because current section IX (proposed section (X)) contains the following checklist question under land use:

*Would the project: b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*

Even if the LOS and roadway capacity questions were removed from the transportation section, they would have to be addressed in the land use section under the above checklist question; therefore, nothing really changes. As an alternative, LSA suggests that the transportation section questions be clarified simply to reflect current legal requirements on a project. We propose that transportation question a) be rewritten as follows:

- a) *[Would the project] Result in conflicts with adopted or applicable City, County or Regional standards for level of service on affected roadway intersections and/or links?*

This question now merely restates the obvious: that the project must comply with existing laws and regulations. If a community wants to adopt different LOS standards and regulations, then it certainly can do so by amending its General Plan, any applicable Congestion Management Plan, or any other applicable document. This wording focuses and clarifies the CEQA checklist, and it allows agencies the ability to comprehensively address questions regarding traffic LOS.

## VMT AS SIGNIFICANCE STANDARD

In lieu of LOS or other established standards, the revised checklist contains the following question:

- a) *[Would the project] Result in a substantial increase in roadway vehicle volume or vehicle miles traveled?*

Under this proposal, each environmental document must assess whether the project would result in a *substantial* increase in VMT. There are several problems with this proposal as written:

- No definition or guidance is provided for the word “substantial”. If you provide a numeric definition of “substantial,” then virtually every project of sufficient size will trigger the threshold. This will discourage large projects and encourage piece-mealing.
- VMT is currently developed by using computer models; the accuracy of such models in estimating VMT is questionable at this time, particularly at the individual project level. In addition, VMT may be double counted since each trip has two ends.
- SB-375 takes a more reasoned approach to the VMT question, by requiring the development of updated models and measures of compliance prior to widespread use. We would urge the same.

We believe that OPR and the ARB need to study this question further and develop appropriate guidelines that actually will achieve the environmental goals. LSA suggests that VMT be measured against regional plans that will be developed under SB375. If VMT needs to be added to CEQA *Guidelines* at this time, we suggest the following language:

- b) *[Would the project] Conflict with adopted and applicable City, County or Regional plans for reductions in vehicle miles travelled?*

## **PARKING**

Similar to our discussion of LOS above, simply removing a discussion of parking from the CEQA checklist does not change any requirements for parking; the discussion requirement would then move back to the land use section noted above. We suggest that, instead of removing the discussion entirely, the checklist question be reworded as follows:

- f) *[Would the project] Conflict with adopted and applicable parking standards?*

Again, this merely states that current laws/regulations must be followed, which they must be in any case. A city that wants to go without parking always has that option.

## **ADDITIONAL CONSIDERATIONS**

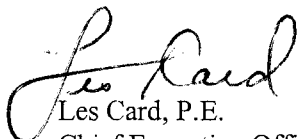
One final point: the draft new *Guidelines* include this disclaimer: “The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.”

In practice, many jurisdictions use the Appendix G checklist questions as their standards of significance. Only a few cities and agencies actually have adopted their own thresholds of significance because doing so involves a lot of work, and new thresholds are subject vulnerable to legal challenge. Using Appendix G language as level of significance standard is common practice, so OPR should recognize that these *Guidelines* will be used in this way.

Thank you for consideration of these comments.

Sincerely,

LSA ASSOCIATES, INC.

  
Les Card, P.E.  
Chief Executive Officer